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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY SACRAMENTO

FAIR POLITICAL PRACTICES COMMISSION,)	Case No. 03AS04882
a state agency,)	
)	
Plaintiff,)	STIPULATION FOR ENTRY OF
)	JUDGMENT
v.)	
)	(IN FAVOR OF PLAINTIFF AGAINST
AMERICAN CIVIL RIGHTS COALITION, INC.,)	DEFENDANTS)
WARD CONNERLY, and DOES 1-50,)	
)	UNLIMITED CIVIL ACTION
Defendants.)	
)	
)	
)	

Plaintiff Fair Political Practices Commission, a state agency, by its attorneys, and Defendants American Civil Rights Coalition and Ward Connerly enter into this stipulation to resolve all factual and legal issues pertaining to the complaint for civil penalties previously filed in this action.

It is stipulated by and between the parties as follows:

JURISDICTION AND WAIVER

The complaint on file in this action was properly filed and served on Defendants American Civil Rights Coalition ("ACRC") and Ward Connerly ("Connerly"). Jurisdiction of the subject matter and of the parties to this action and venue are properly in the Sacramento County Superior Court. The

1 complaint states three causes of action against Defendants ACRC and Connerly, and any defects in the
2 complaint are expressly waived.

3 The Court will enter judgment in this action, pursuant to the stipulation, on request of Plaintiff
4 Fair Political Practices Commission (the "FPPC") without notice to Defendants ACRC and Connerly.

5 Plaintiff FPPC and Defendants ACRC and Connerly agree to enter into this stipulation to resolve
6 all factual and legal issues raised in this matter, and to reach a final disposition with respect to
7 Defendants, without the necessity of holding a civil trial to determine their liability.

8 Defendants ACRC and Connerly understand, and hereby knowingly and voluntarily waive, any
9 and all procedural rights that they could have exercised if this stipulation had not been entered into,
10 including, but not limited to, their right to civil discovery, to appear personally at any civil trial held in
11 this matter, to confront and cross-examine witnesses, and to have the trial presided over by an impartial
12 judge, and heard and decided by a jury.

13 **ENTRY OF JUDGMENT**

14 For the violations of the Political Reform Act admitted herein, Plaintiff FPPC and Defendants
15 ACRC and Connerly stipulate that a final judgment be issued and entered in the form of the order
16 attached hereto and made a part hereof as Exhibit "A," jointly and severally against Defendants ACRC
17 and Connerly, and in favor of Plaintiff FPPC, for a monetary penalty of ninety-five thousand dollars
18 (\$95,000). Payment of this amount shall be made by Defendants ACRC and Connerly by cashier's
19 checks, payable to the "General Fund of the State of California," as follows: payment of the amount of
20 twenty-five thousand dollars (\$25,000) shall be made upon the submission of this stipulation to the
21 court; and payment of the balance of the monetary penalty in the amount of seventy thousand dollars
22 (\$70,000) shall be made by October 31, 2005. The parties shall each bear their own attorney's fees and
23 costs. If, for any reason, the monetary penalty is not paid in full on or before October 31, 2005,
24 Defendants American Civil Rights Coalition and Ward Connerly shall be jointly and severally liable for
25 the payment of the unpaid balance of the judgment, plus interest on the unpaid balance of the judgment
26 at the legal rate, commencing from October 31, 2005, and will be jointly and severally liable for
27 reasonable attorney's fees and all other costs of collection.
28

1 The final judgment may be signed by any judge of the Superior Court of the State of California,
2 in and for the County of Sacramento, and entered by any clerk upon application of any party without
3 notice.

4 **FILING OF CAMPAIGN STATEMENTS**

5 It is further stipulated between the parties that, concurrent with the execution of this stipulation,
6 Defendants ACRC and Connerly have filed: the lawfully required statement of organization for
7 Defendant ACRC referenced in the First Cause of Action set forth below; and the lawfully required
8 campaign statements for Defendant ACRC referenced in the Second and Third Causes of Action set
9 forth below, in both paper and electronic formats. Additionally, Defendants ACRC and Connerly have
10 filed a statement of termination lawfully terminating any further campaign reporting requirements for
11 Defendant ACRC based on the facts and circumstances set forth herein.

12 **STIPULATED STATEMENT OF LAW AND FACTS**

13 **1. THE PARTIES AND BACKGROUND INFORMATION**

14 Plaintiff FPPC is a state agency created by the Political Reform Act of 1974 (the "Act"). (Gov.
15 Code §§ 81000 - 91014.) Plaintiff FPPC has primary responsibility for the impartial, effective
16 administration and implementation of the Act. (Gov. Code § 83111.) Pursuant to Government Code
17 section 91001, subdivision (b), Plaintiff FPPC is the civil prosecutor for matters involving state election
18 campaigns. Plaintiff FPPC is authorized to maintain this action under Government Code sections
19 91001, subdivision (b), 91004, 91005, and 91005.5.

20 Defendant ACRC was, at all times relevant to this matter, a California nonprofit corporation
21 having the stated goal of ending racial preferences and classifications. In furtherance of this stated goal,
22 Defendant ACRC solicited contributions nationally. As set forth below, Defendant ACRC became a
23 recipient committee as defined in Government Code section 82013, subdivision (a).

24 Defendant Connerly was, at all times relevant, the Chief Executive Officer of Defendant ACRC,
25 and as such, was the person "primarily responsible for initiating and implementing the political activity"
26 of Defendant ACRC. Defendant Connerly was therefore the treasurer of Defendant ACRC, in its
27 capacity as a committee, by operation of law pursuant to title 2, California Code of Regulations section
28 18427, subdivision (d).

1 **2. SUMMARY OF THE CAMPAIGN REPORTING LAWS**

2 An express purpose of the Act, as set forth in Government Code section 81002, subdivision (a),
3 is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully
4 disclosed to the public, so that voters may be better informed, and so that improper practices may be
5 inhibited. In furtherance of this purpose of disclosure, the Act sets forth a comprehensive campaign
6 reporting system designed to disclose to the public, in a timely manner, the election activities of
7 California political candidates and committees. (Gov. Code § 84200, et seq.)

8 **Qualification as a Committee**

9 Government Code section 82013, subdivision (a) defines a “committee” as any person or
10 combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a
11 calendar year. This type of committee is commonly referred to as a “recipient” committee. Under
12 Government Code section 82047.5, subdivision (b), a recipient committee that is formed or exists
13 primarily to support or oppose a single measure is a “primarily formed committee.” The term
14 “measure” is defined in Government Code section 82043 as including any constitutional amendment or
15 other proposition which is submitted or intended to be submitted to a popular vote at an election by
16 initiative.

17 Government Code section 82015, subdivision (a) defines a “contribution” as a payment, a
18 forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment
19 except to the extent that full and adequate consideration is received, unless it is clear from the
20 surrounding circumstances that it is not made for political purposes. Title 2, California Code of
21 Regulations section 18215, subdivision (a) states that a contribution is any payment made for political
22 purposes for which full and adequate consideration is not made to the donor. A payment is made for
23 political purposes if it is, *inter alia*, for the purpose of influencing or attempting to influence the action
24 of the voters for or against the qualification or passage of any measure. Pursuant to title 2, California
25 Code of Regulations section 18215, subdivision (b)(1), a contribution includes any payment made to an
26 organization when, at the time the payment is made, the donor knows or has reason to know that the
27 payment, or funds with which the payment is commingled, will be used to make contributions or
28 expenditures.

1 **Duty to File a Statement of Organization**

2 Government Code section 84101, subdivision (a) requires a recipient committee to file a
3 statement of organization within ten days of qualifying as a committee. Under Government Code
4 section 84101 and Government Code section 84215, subdivision (a), the original statement of
5 organization and any amendments to the statement of organization must be filed with the Secretary of
6 State, two copies with the Registrar-Recorder of Los Angeles County, and two copies with the Registrar
7 of Voters of the City and County of San Francisco.

8 Under Government Code section 84102, subdivision (d), a recipient committee is required to
9 provide, in its statement of organization, the title and ballot number, if any, of any measure which the
10 committee supports or opposes as its primary activity.

11 **Duty to File Semi-annual Campaign Statements**

12 Any person or persons who constitute a committee, pursuant to Government Code section 82013,
13 subdivision (a), is required to file periodic campaign statements and reports disclosing the financial
14 activity of the recipient committee, as required under the Act. (Gov. Code § 84200, et seq.) Section
15 84200, subdivision (a) requires candidates and recipient committees to file semi-annual campaign
16 statements each year no later than July 31 for the semi-annual reporting period ending on June 30, and
17 no later than January 31 of the following year for the semi-annual reporting period ending on December
18 31.

19 **Duty to File Campaign Statements Electronically**

20 Government Code section 84605, subdivision (a) requires any committee, which is required to
21 file campaign statements and reports in connection with a state ballot measure and cumulatively receives
22 contributions or makes expenditures totaling fifty thousand dollars (\$50,000) or more to support or
23 oppose a state measure, to file campaign statements and reports online or electronically with the
24 Secretary of State, beginning July 1, 2000, and for every reporting period thereafter. Persons filing
25 online or electronically shall also continue to file required disclosure statements and reports in a paper
26 format. (Gov. Code § 84605, subd. (i).)

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1 **3. CIVIL LIABILITY PROVISIONS**

2 Government Code section 91004 provides that any person who intentionally or negligently
3 violates any of the reporting requirements of the Act shall be liable in a civil action in an amount up to
4 the amount(s) not properly reported. Persons that violate Government Code sections 84200 and 84605
5 are liable in a civil action brought pursuant to Government Code section 91004.

6 Government Code section 91005.5 provides that any person who violates any provision of the
7 Act for which no specific civil penalty is provided, shall be liable in a civil action for an amount up to
8 five thousand dollars (\$5,000) per violation. Persons who violate Government Code section 84101 are
9 liable in a civil action pursuant to Government Code section 91005.5.

10 Pursuant to Government Code section 81004, subdivision (b), Government Code section 84100,
11 and title 2, California Code of Regulations, section 18427, subdivision (a), it is the duty of a
12 committee's treasurer to ensure that the committee complies with all of the requirements of the Act
13 concerning the receipt and expenditure of funds, and the reporting of such funds. A committee's
14 treasurer may be held jointly and severally liable, along with the committee, for any reporting violations
15 committed by the committee. (Gov. Code § 91006.)

16 **4. FOUNDATIONAL FACTS**

17 In 2001, Defendant ACRC began working to qualify an initiative for the California ballot,
18 preventing state and local governments from using or collecting racial and ethnic information about
19 people in all but a few specified situations, the so-called Racial Privacy Initiative (the "RPI").
20 Defendant ACRC was the sponsor of the Racial Privacy Initiative Committee (the "RPI Committee"), a
21 primarily formed ballot measure committee as defined in Government Code section 82047.5,
22 subdivision (a), that was formed to support Proposition 54 in the October 7, 2003 statewide special
23 election. As a recipient committee under Government Code section 82013, subdivision (a), the RPI
24 Committee filed periodic campaign disclosure statements.

25 During the semi-annual campaign reporting period ending December 31, 2001, Defendant
26 ACRC made \$50,000 in monetary contributions and \$17,094 in non-monetary contributions to the RPI
27 Committee. Because of its activities in 2001 to financially support the qualification and/or passage of
28 the RPI, any payments made on or after January 1, 2002 to Defendant ACRC were contributions to

Defendant ACRC under Government Code section 82015, subdivision (a) and title 2, California Code of Regulations section 18215, subdivision (b)(1).

5. FIRST CAUSE OF ACTION—FAILING TO FILE A STATEMENT OF ORGANIZATION

Under Government Code section 82013, subdivision (a), Defendant ACRC qualified as a recipient committee on January 14, 2002, by receiving a contribution in the amount of \$30,000 from Mr. Paul Singer. Upon Defendant ACRC qualifying as a committee, Defendant ACRC, and its treasurer, Defendant Connerly, were required to file a statement of organization within ten days by Government Code section 84101, subdivision (a). Defendants ACRC and Connerly did not file a statement of organization within ten-days of Defendant ACRC qualifying as a committee.

By failing to file a statement of organization within ten days of Defendant ACRC qualifying as a committee by receiving \$1,000 or more in contributions, Defendants ACRC and Connerly violated Government Code section 84101, subdivision (a).

6. SECOND CAUSE OF ACTION—FAILING TO FILE SEMI-ANNUAL CAMPAIGN STATEMENTS

Failing to file a semi-annual campaign statement by July 31, 2002

As a recipient committee primarily formed to support the passage of a statewide ballot measure, Defendant ACRC and its treasurer, Defendant Connerly, were required, under Government Code section 84200, subdivision (a), to file a semi-annual campaign statement by July 31, 2002, disclosing the contribution and expenditure activity of Defendant ACRC during the campaign reporting period of January 1, 2002 through June 30, 2002. During the January 1, 2002 through June 30, 2002 campaign reporting period, Defendant ACRC received \$1,628,578.19 in contributions in support of the RPI. Defendants ACRC and Connerly failed to file a semi-annual campaign statement disclosing the contributions received by Defendant ACRC by the July 31, 2002 due date.

By failing to file a semi-annual campaign statement by July 31, 2002, Defendants ACRC and Connerly violated Government Code section 84200, subdivision (a).

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1 **Failing to file a semi-annual campaign statement by January 31, 2003**

2 As a recipient committee primarily formed to support the passage of a statewide ballot measure,
3 Defendant ACRC, and its treasurer, Defendant Connerly, were required, under Government Code
4 section 84200, subdivision (a) to file a semi-annual campaign statement by January 31, 2003, disclosing
5 the contribution and expenditure activity of Defendant ACRC during the campaign reporting period of
6 July 1, 2002 through December 31, 2002. During the July 1, 2002 through December 31, 2002
7 campaign reporting period, Defendant ACRC received \$750.00 in contributions in support of the RPI.
8 Defendants ACRC and Connerly failed to file a semi-annual campaign statement disclosing the
9 contributions received by Defendant ACRC by the January 31, 2003 due date.

10 By failing to file a semi-annual campaign statement by January 31, 2003, Defendants ACRC and
11 Connerly violated Government Code section 84200, subdivision (a).

12 **Failing to file a semi-annual campaign statement by July 31, 2003**

13 As a recipient committee primarily formed to support the passage of a statewide ballot measure,
14 Defendant ACRC and its treasurer, Defendant Connerly, were required, under Government Code section
15 84200, subdivision (a), to file a semi-annual campaign statement by July 31, 2003, disclosing the
16 contribution and expenditure activity of Defendant ACRC during the campaign reporting period of
17 January 1, 2003 through June 30, 2003. While Defendant ACRC had no contribution or expenditure
18 activity during the January 1, 2003 through June 30, 2003 campaign reporting period, Defendant ACRC
19 had an ongoing obligation to file a semi-annual campaign statement for each reporting period until such
20 time as the committee was lawfully terminated. Defendants ACRC and Connerly failed to file a semi-
21 annual campaign statement by the July 31, 2003 due date.

22 By failing to file a semi-annual campaign statement by July 31, 2003, Defendants ACRC and
23 Connerly violated Government Code section 84200, subdivision (a).

24 **7. THIRD CAUSE OF ACTION —FAILING TO ELECTRONICALLY FILE SEMI-**
25 **ANNUAL CAMPAIGN STATEMENTS**

26 Under Government Code section 84605, subdivision (a), Defendant ACRC, as a primarily
27 formed ballot measure committee, and its treasurer, Defendant Connerly, had a duty to file all of its
28 campaign statements electronically, in addition to filing them in a paper format once Defendant ACRC

1 received contributions or made expenditures totaling fifty thousand dollars (\$50,000) or more to support
2 the passage of the RPI. As of February 25, 2002, Defendant ACRC received \$68,982.51 in cumulative
3 contributions supporting the passage of the RPI, and was thereafter required to file all of its campaign
4 statements electronically.

5 **Failing to electronically file a semi-annual campaign statement by July 31, 2002**

6 As a recipient committee primarily formed to support the passage of a statewide ballot measure,
7 that had received cumulative contributions of fifty thousand dollars or more, Defendant ACRC and its
8 treasurer, Defendant Connerly, were required, under Government Code section 84605, subdivision (a),
9 to electronically file a semi-annual campaign statement by July 31, 2002, disclosing the contribution and
10 expenditure activity of Defendant ACRC during the campaign reporting period of January 1, 2002
11 through June 30, 2002. During the January 1, 2002 through June 30, 2002 campaign reporting period,
12 Defendant ACRC received \$1,628,578.19 in contributions in support of the RPI. Defendants ACRC and
13 Connerly failed to electronically file a semi-annual campaign statement disclosing the contributions
14 received by Defendant ACRC by the July 31, 2002 due date.

15 By failing to file electronically a semi-annual campaign statement by July 31, 2002, Defendants
16 ACRC and Connerly violated Government Code section 84605, subdivision (a).

17 **Failing to electronically file a semi-annual campaign statement by January 31, 2003**

18 As a recipient committee primarily formed to support the passage of a statewide ballot measure,
19 that had received cumulative contributions of fifty thousand dollars or more, Defendant ACRC and its
20 treasurer, Defendant Connerly, were required, under Government Code section 84605, subdivision (a),
21 to electronically file a semi-annual campaign statement by January 31, 2003, disclosing the contribution
22 and expenditure activity of Defendant ACRC during the campaign reporting period of July 1, 2002
23 through December 31, 2002. During the July 1, 2002 through December 31, 2002 campaign reporting
24 period, Defendant ACRC received \$750 in contributions in support of the RPI. Defendants ACRC and
25 Connerly failed to electronically file a semi-annual campaign statement disclosing the contributions
26 received by Defendant ACRC by the January 31, 2003 due date.

27 By failing to file electronically a semi-annual campaign statement by January 31, 2003,
28 Defendants ACRC and Connerly violated Government Code section 84605, subdivision (a).

Failing to electronically file a semi-annual campaign statement by July 31, 2003

As a recipient committee primarily formed to support the passage of a statewide ballot measure, that had received cumulative contributions of fifty thousand dollars or more, Defendant ACRC and its treasurer, Defendant Connerly, were required, under Government Code section 84605, subdivision (a), to electronically file a semi-annual campaign statement by July 31, 2003, disclosing the contribution and expenditure activity of Defendant ACRC during the campaign reporting period of January 1, 2003 through June 30, 2003. While Defendant ACRC had no contribution or expenditure activity during the January 1, 2003 through June 30, 2003 campaign reporting period, Defendant ACRC had an ongoing obligation to electronically file a semi-annual campaign statement for each reporting period until such time as the committee was lawfully terminated. Defendants ACRC and Connerly failed to electronically file a semi-annual campaign statement by the July 31, 2003 due date.

By failing to file electronically a semi-annual campaign statement by July 31, 2003, Defendants ACRC and Connerly violated Government Code section 84605, subdivision (a).

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CONCLUSION

Judgment shall be entered against Defendants American Civil Rights Coalition and Ward Connerly, and in favor of Plaintiff Fair Political Practices Commission, in the amount of ninety-five thousand dollars (\$95,000).

IT IS SO STIPULATED:

Dated: _____

Ward Connerly, Defendant, individually and on behalf of
Defendant American Civil Rights Coalition

Dated: _____

Charles Bell, Attorney for Defendants Ward
Connerly and American Civil Rights Coalition

Dated: _____

Fair Political Practices Commission, Plaintiff

By: _____
Mark Krausse, Executive Director

Dated: _____

William L. Williams, Jr., Attorney for Plaintiff
Fair Political Practices Commission